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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 ERIC MOODY,

No. 2:03-cv-2023-MCE-KJM-P

12 Petitioner,

13 v.

ORDER

14 TOM CAREY, Warden,

15 Respondent.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this
18 court's October 13, 2006 denial of his application for a writ of habeas corpus. Before petitioner
19 can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R.
20 App. P. 22(b).

21 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has
22 made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The
23 court must either issue a certificate of appealability indicating which issues satisfy the required
24 showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

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1 For the reasons set forth in the magistrate judge's August 18, 2006 findings and
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: November 27, 2006

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8 MORRISON C. ENGLAND, JR.
9 UNITED STATES DISTRICT JUDGE
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